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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,224	10/02/2003	Duane C. Markley	EA12-003	3288

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

EXAMINER	
PARSLEY, DAVID J	
ART UNIT	**PAPER NUMBER**
3643	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/679,224	MARKLEY ET AL.	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33 and 43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33 and 43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 10-5-05 and this action is final.

Claim Objections

2. Claim 18 recites the limitation "the lower handle assembly" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "the fishing pole " in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the distal end portion" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 16-20, 22-24 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,369,904to Vogts et al.

Referring to claims 1 and 18, Vogts et al. discloses a fishing pole comprising, a handle assembly – see figure 7, having a handle portion – at 708, and a plurality of stackable weights – at 704,706,714, each having an outer surface radius that is substantially equal to an outer surface radius of the lower handle assembly – at 708 – see for example figure 7, the weights configured for mounting on en end of the handle portion – see figure 7, and each having a cross-sectional outer surface configured in assembly to match a cross-sectional outer surface profile of an end portion of the handle portion such that the handle portion and the plurality of stackable weights cooperate to provide a hand grip surface – see for example figure 7, and a rod – at 702 or at the main fishing rod not shown in figure 7, but shown in alternate embodiments – at 10 and 110 in figures 1-2, wherein the plurality of stackable weights are configured to be removably mounted to the handle assembly to shift a center of mass of the fishing pole – see for example – at 704 and

706 in figure 7 where each of items 704 and 706 are separate components from the other components of the handle assembly.

Referring to claim 2, Vogts et al. discloses one or more of the plurality of stackable weights are removably attached to the handle portion to shift the center of mass of the fishing pole between different positions in order to customize counter balance of the fishing pole according to user preferences – see for example figure 7 and column 6 lines 45-62.

Referring to claims 3 and 19, Vogts et al. discloses the handle assembly comprises a first handle portion – at 708 or the portion of item 708 proximate item 702, and a second handle portion – at 702 or at the other end of item 708, removably attached to the first handle portion – see for example figure 7, where items 702 and 708 are shown as being separate components.

Referring to claim 4, Vogts et al. discloses the second handle portion has a selected length for tailoring a centroid of the fishing pole – see for example – at 708 in figure 7.

Referring to claim 6, Vogts et al. discloses the handle assembly comprises a first handle portion – at the end of 708 proximate item 702 as seen in figure 7, and a second handle portion – at the end of item 708 opposite item 702 as seen in figure 7, wherein the first handle portion and the second handle portion are integrally formed together – see for example figure 7.

Referring to claim 7, Vogts et al. discloses the second handle portion – at 702, comprises the handle portion having a longitudinal member – at 702, with proximal and distal end portions – see figure 7, and wherein the proximal end portion is located adjacent the first handle portion – at 708 – see figure 7, and the distal end portion is located away from the first handle portion – see for example figure 7.

Referring to claim 8, Vogts et al. discloses the plurality of stackable weights – at 704,706, are affixed onto the distal end portion of the second handle portion – see for example figure 7.

Referring to claims 16 and 24, Vogts et al. discloses a cross- sectional contour of the plurality of stackable weights – at 704,706, follows substantially a cross-sectional outer surface contour of the handle assembly configured to receive the weight members – see for example figure 7.

Referring to claim 17, Vogts et al. discloses each of the plurality of stackable weights consists of one of a metal, metal with reinforced plastic and a magnet – see for example column 3 lines 64-68, column 4 lines 1-11 and column 6 lines 23-30.

Referring to claim 20, Vogts et al. discloses the first handle portion – at 708, is configured to support a fishing rod – see figure 7, and the second handle portion – at 702, is configured to support the plurality of stackable weight members – see figure 7.

Referring to claim 22, Vogts et al. discloses the first and second handle portions – at either end of item 708, are integrally formed and lie in a common plane – see for example figure 7.

Referring to claim 23, Vogts et al. discloses the plurality of stackable weight members have substantially equal exposed outer surface radii – see for example figures 5-7.

Referring to claim 43, Vogts et al. discloses a handle for a fishing pole comprising, a structural member – at 702,708, for supporting a fishing reel and a plurality of stackable mass members – at 704,706, removably affixed to an end portion of the structural member – see figure 7, each mass member having an outer surface – see figure 7, exposed in assembly to provide a

conforming outer surface of the mass member substantially matching an outer surface of the structural member so as to provide a handle with a surface hand grip carried by the structural member for custom tailoring balance of the handle – see for example figure 7 and column 6 lines 45-62.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 9-15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogts et al. as applied to claims 3 or 19 above, and further in view of U.S. Patent No. 5,355,611 to Dahlberg et al.

Referring to claims 5 and 21, Vogts et al. does not disclose the second handle portion is configured to pivot about a point where the second handle portion attaches to the first handle portion. Dahlberg et al. does disclose the second handle portion – see the portion of items 4-9 located directly adjacent item 12 in figure 1, is configured to pivot about a point – at 12, where the second handle portion attaches to the first handle portion – at 8 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Vogts et al. and add the second handle portion capable of pivoting of Dahlberg et al., so as to

allow for the fishing rod to be balanced in the hand of the fisherman for easier use of the fishing rod.

Referring to claim 9, the device of the embodiment of figure 7 of Vogts et al. as modified by Dahlberg et al. does not disclose the distal end portion comprises a female threaded portion configured to receive a complementary male threaded portion on an end member configured to receive the plurality of stackable weights. The embodiment of figures 5-6 of Vogts et al. does disclose the distal end portion comprises a female threaded portion – at 518, configured to receive a complementary male threaded portion – at 520, on an end member – at 522 or 524, configured to receive the plurality of stackable weights – at 516 or at the interior of 522 – see for example figures 5-6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Vogts et al. as modified by Dahlberg et al. and add the threaded portions of the embodiment of figures 5-6 of Vogts et al., so as to allow for the weights to be securely removably held to the handle of the rod.

Referring to claim 10, Vogts et al. as modified by Dahlberg et al. further discloses each of the plurality of stackable weights comprises a cylindrical bore – see at 704 and 706 or – at 516, 522 in figures 5-7 of Vogts et al.

Referring to claim 11, Vogts et al. as modified by Dahlberg et al. further discloses each of the plurality of stackable weights comprises a substantially equal radius – see for example at 704,706 or 516, 522 of Vogts et al.

Referring to claim 12, Vogts et al. as modified by Dahlberg et al. further discloses the plurality of stackable weights – at 16a-16d and 30, and the second handle portion – at 4, have substantially equal radii, wherein upon assembly the weights and the second handle portion

appear to be integrally formed along an exposed outer surface – see for example figure 4 of Dahlberg et al.

Referring to claim 13, Vogts et al. as modified by Dahlberg et al. further discloses the end member – at 38, comprises a screw – at 40, in threaded engagement with a recess provided in the distal end of the second handle – see at 28,36, to attach selected ones of the plurality of stackable weights – at 48-56, carried by the end member to the handle assembly – at 14-22 – see for example figure 9 of Dahlberg et al.

Referring to claim 14, Vogts et al. as modified by Dahlberg et al. further discloses the end member comprises a head 522, a shank – at 520, having first and second ends – see figure 5 of Vogts et al., and the second end includes the complementary male threaded portion – at 520, configured to be received by the female threaded portion – at 518, in the distal end portion of the second handle portion – at 512 – see for example figures 5-6 of Vogts et al.

Referring to claim 15, Vogts et al. as modified by Dahlberg et al. further discloses the shank – at 520, is configured to receive the one or more weights – at 516, via a cylindrical bore – at 518, provided in each of the one or more weights – see for example figure 5 of Vogts et al.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogts et al. as applied to claim 24 above, and further in view of U.S. Patent No. 6,115,955 to Sledge. Vogts et al. does not disclose the plurality of stackable weight members comprise a first weight member having a first mass and a second weight member having a second mass different than the mass of the first weight member, and wherein the first weight member has a visible outer surface comprising a first color and the second weight member has a visible outer surface comprising a second color visually perceptible as being different than the first color to color code and identify

the different masses of the first weight member and the second weight member. Sledge discloses the plurality of stackable weight members – at 58,60, comprise a first weight member – at 58m having a first mass and a second weight member – at 60, having a second mass different than the mass of the first weight member, and wherein the first weight member has a visible outer surface comprising a first color and the second weight member has a visible outer surface comprising a second color visually perceptible as being different than the first color to color code and identify the different masses of the first weight member and the second weight member – see for example figure 2 and column 7 lines 22-33. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Vogts et al. and add the weights of different masses and colors of Sledge, so as to allow for controlled balance of the fishing rod based on the desired characteristics of the fisherman.

Claims 26-27 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,467,548 to Tabor in view of Vogts et al.

Referring to claim 26, Tabor discloses an apparatus for counter balancing a handle comprising, a set of stackable balancing weight members – at 11, configured to be removably supported by a handle – at 3-4, of the fishing pole – see for example figures 1-2, a handle portion – at one of items 10, having a female threaded end portion – see figure 1, and an end fastener – at 12-15, having a male threaded portion – see at 14-15, configured to removably mate with the female threaded end portion for removably supporting a selected plurality of the weight members along an end of the handle portion – see for example figures 1-2, wherein the set of stackable balancing weight members are configured to produce a counter-balancing weight on the handle by relocating a centroid of the handle between different positions – see for example figures 1-2

and column 2 lines 13-60. Tabor does not disclose an outer surface of the stackable balancing weight members providing an outer grip surface with a cross-sectional surface profile that substantially matches a cross-sectional surface profile of the end of the handle portion so as to extend an outer grip surface of the handle portion. Vogts et al. does disclose an outer surface of the stackable balancing weight members – at 704,706, providing an outer grip surface with a cross-sectional surface profile that substantially matches a cross-sectional surface profile of the end of the handle portion – at 708, so as to extend an outer grip surface of the handle portion – see for example figure 7. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Tabor and add the weight members forming a grip surface of Vogts et al., so as to allow for fisherman to securely hold the rod during use.

Referring to claim 27, Tabor as modified by Vogts et al. further discloses the handle comprises a first and second handle portions – at 3-7, configured to support a fishing rod – at 1, and the set of stackable balancing weight members – at 10-11 – see for example figures 1-2.

Referring to claim 29, Tabor as modified by Vogts et al. further discloses the first and second handle portions are integrally formed – see for example at either end of item 4 in figures 1-2.

Referring to claim 30, Tabor as modified by Vogts et al. further discloses the set of balancing weights have substantially equal diameter and distinct mass – see for example – at 10-11 of Tabor and – at 704,706 of Vogts et al.

Referring to claim 31, Tabor as modified by Vogts et al. further discloses the set of balancing weight members have a surface contour that is substantially similar to a surface contour of the handle – see for example – at 704-708 in figure 7 of Vogts et al.

Referring to claim 32, Tabor as modified by Vogts et al. further discloses the set of balancing weight members and the handle have substantially equal radii – see for example 704-708 of Vogts et al.

Referring to claim 33, Tabor as modified by Vogts et al. further discloses the set of balancing weight members and the handle have substantially equal radii to render the balancing weight members to appear as being integrally formed upon assembly of the weight members to the handle – see for example at 704-708 in figure 7 and column 6 lines 45-62 of Vogts et al.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tabor as modified by Vogts et al. as applied to claim 27 above, and further in view of U.S. Patent No. 5,355,611 to Dahlberg et al.

Referring to claim 28, Tabor as modified by Vogts et al. does not disclose the second handle portion is configured to pivot about a point where the second handle portion attaches to the first handle portion. Dahlberg et al. does disclose the second handle portion – see the portion of items 4-9 located directly adjacent item 12 in figure 1, is configured to pivot about a point – at 12, where the second handle portion attaches to the first handle portion – at 8 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Tabor as modified by Vogts et al. and add the second handle portion capable of pivoting of Dahlberg et al., so as to allow for the fishing rod to be balanced in the hand of the fisherman for easier use of the fishing rod.

Response to Arguments

6. Applicant's arguments with respect to claims 1-33 and 43 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Parsley
Patent Examiner
Art Unit 3643

PETER M. POON
SUPERVISORY PATENT EXAMINER
12/1/05